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(916) 445-4588

September 1, 1977

Mr. Paul Mergen
Supervising Auditor-Appraiser
Placer County Assessor's Office
145 Fulweiler Avenue
Auburn, CA 95603

Re: Homeowners and Soldiers and Sailors
Relief Act Exemption

Dear Mr. Mergen:

In your letter of August 24, 1977 you asked whether under the facts stated below the subject taxpayer is entitled to both exemptions or just one.

Subject taxpayer is filing a homeowners exemption in Placer County stating his principal place of residence is California. In addition he is also filing for an exemption on a boat that he owns. He is claiming that his boat is exempt under the Soldiers and Sailors Relief Act.

In answering your question regarding the taxation of the vessel, we have assumed it is undocumented and is habitually moored in Placer County. Under these circumstances, such a vessel would normally be subject to tax under Section 1141 of the Revenue and Taxation Code. Section 574 of the United States Code Annotated, basically provides that the personal property of a serviceman who is here on active duty shall not be deemed to be located in or have a situs for taxation in the state where the serviceman happens to be due to his military orders. Therefore, assuming the claimant in question is a serviceman and is in California, solely as the result of military orders, he would be entitled to the exemption on the vessel.

Mr. Paul Mergen

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To be entitled to the homeowners exemption under Article XIII, Section 3(k) of the California Constitution, the claimant must be an owner, and must be living in the dwelling on the lien date as his principal residence. There is no requirement that the person claiming the exemption be a legal resident in California. Accordingly, unless it can be concluded that the property is a secondary home of the owner, it appears the claimant also meets the requirements for the exemption.

Sincerely,

Glenn L. Rigby
Assistant Chief Counsel

GLR:po